

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6328 of 1983

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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SHIVAJI SHANKERJI

Versus

DISTRICT SUPERINTENDENT OF POLICE

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Appearance:

MR SB NANAVATI for Petitioner

MR NN PANDYA, for Respondent

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 26/06/96

ORAL JUDGEMENT

Heard learned counsel for the petitioner. It is not in dispute that the petitioner has vacated the quarter in dispute. It is only case whether he has vacated the quarter after two or three months of the permissible limit for which he could have retained the quarter after his transfer from Patan Taluka Police Station to Duvavada Police Station and ultimately to

Mehsana. Challenge has been made by petitioner to the impugned order for recovery of rent of the quarter at the rate of Rs.245/- p.m. from the petitioner. While issuing notice, this Court granted interim relief to the petitioner in terms of Para-11(c) of this Special Civil Application. Para-11(c) reads as under:

"pending admission, hearing and final disposal of this petition, the Respondents, their agents or subordinates may be restrained from implementing the impugned order for recovery of the rent at the rate of Rs.245/- p.m. from the petitioner."

By this order, the recovery of amount of rent at the rate of Rs.245/- p.m. remained under stay and I do not consider it to be a fit case where this writ petition should be dismissed at this stage, more so when admittedly the quarter has been vacated by the petitioner. The petitioner is a low paid employee and the counsel for the petitioner has given out the reasons for some delay which has been made by the petitioner in vacating the quarter. He stated that at Mehsana, he was not allotted Government accommodation and he was also unable to arrange for private house. Taking into consideration, the facts and circumstances of the case, I am of the opinion that the impugned order dated 29.10.83 cannot be allowed to stand. In the result this Special Civil Application is allowed and the impugned order, annexure-E, to this petition, is set aside. Rule is made absolute in the aforesaid terms.

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